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6 UNITED STATES DISTRICT COURT FOR  
7 THE WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 JOHN AND KELLY ARMSTRONG,  
10 individually, as husband and wife, and as  
Guardians ad Litem for [REDACTED] M.A.,  
[REDACTED], a minor,

11 Plaintiffs,

12 v.

13 SPRINGS WINDOW FASHIONS  
14 MANUFACTURING CO., USA, INC., a  
foreign corporation; SPRINGS INDUSTRIES,  
15 INC., a foreign corporation; and SPRINGS  
WINDOW FASHIONS, LLC, a foreign  
16 corporation, all dba GRABER; MIKE AND  
ROBERTA QUIGGLE, individually and as  
17 husband and wife, and dba R & M  
18 INVESTORS, INC., a Washington  
corporation,

19 Defendants.  
20

NO.

NOTICE OF REMOVAL

**Clerk's Action Required**

21 NOW COME defendants Springs Window Fashions Manufacturing Co., USA,  
22 Inc.; Springs Industries, Inc., and Springs Window Fashions, LLC (collectively "Springs"  
23 or "the Springs Entities"), as and for their Notice of Removal of this action from the  
24 Superior Court of Washington, Mason County, state as follows:  
25

1.

NOTICE OF REMOVAL - 1

LAW OFFICE OF WILLIAM J. O'BRIEN  
999 THIRD AVENUE, SUITE 805  
SEATTLE, WA 98104  
TELEPHONE (206) 515-4800/FAX (206) 515-4848

1 This Notice of Removal is filed pursuant to 28 U.S.C. § 1441, et seq.

2 2.

3 On April 6, 2011, the Springs Entities were served with copies of the Summons  
4 and Complaint in this case, filed in the Superior Court of Washington, Mason County. A  
5 true and correct copy of these Summonses and a true and correct copy of the Complaint  
6 are attached collectively as Exhibit A.

7 3.

8 On July 28, 2011, following a scheduling conference with the Court, counsel for  
9 Springs first discussed the case with counsel for codefendants Mike and Roberta Quiggle  
10 and R&M Investors, Inc. At that time, counsel for Springs was first told that Mike and  
11 Roberta Quiggle received a discharge from the United States Bankruptcy Court from the  
12 Western District of Washington on September 11, 2009, and that R&M Investors, Inc. no  
13 longer exists and its assets have been liquidated. This was confirmed by receipt on July  
14 28, 2011 of the Answer to First Amended Complaint and Motion to Dismiss filed by  
15 Mike and Roberta Quiggle and R&M Investors, Inc., a true and correct copy of which is  
16 attached as Exhibit B.

17 4.

18 As required by 28 U.S.C. § 1446(a), "a copy of all process, pleadings, orders, and  
19 other documents on file in the State Court are attached as Exhibit C.

20 5.

21 Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is being filed within  
22 thirty days of first receipt by Defendants, through service or otherwise, of a copy of an  
23 amended pleading, motion, order or other paper from which it may first be ascertained  
24 that the case is one which is or has become removable. (See Exhibit B, served on Springs  
25

on July 28, 2011.)

NOTICE OF REMOVAL - 2

LAW OFFICE OF WILLIAM J. O'BRIEN  
999 THIRD AVENUE, SUITE 805  
SEATTLE, WA 98104  
TELEPHONE (206) 515-4800/FAX (206) 515-4848

1 6.

2 Also pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is being filed  
3 less than one year after suit was commenced in the state court. Accordingly, this Notice  
4 of Removal is timely filed in accordance with 28 U.S.C. § 1446.

5 7.

6 Venue of this removal is proper under 28 U.S.C. § 1441(a) because the United  
7 States District Court for the Western District of Washington is the federal district court  
8 for the district embracing the place where the state court suit is pending.

9 8.

10 This is a civil action that falls under the Court's original jurisdiction under 28  
11 U.S.C. § 1332 (diversity of citizenship) and is one that may be removed to this Court  
12 based on diversity of citizenship under 28 U.S.C. §§ 1441 and 1446.

13 9.

14 At the time this action was filed, Plaintiffs were and continue to be citizens of the  
15 State of Washington.

16 10.

17 At the time this action was filed, each of the Springs Entities were and continue to  
18 be corporations organized and existing under the laws of State of South Carolina, with  
19 their principal places of business in South Carolina. Thus, Springs Window Fashions  
20 Manufacturing Co., USA, Inc.; Springs Industries, Inc., and Springs Window Fashions,  
21 LLC are citizens of the State of South Carolina.

22 11.

1 The citizenship of defendants Mike and Roberta Quiggle and R&M Investors, Inc.  
2 should be disregarded for removal purposes because these defendants were fraudulently  
3 and frivolously joined in the Action. The Discharge of Debtor entered under 11 U.S.C. §  
4 727 by the United States Bankruptcy Court for the Western District of Washington –  
5 subsequent to the incident that forms the bases of all Plaintiffs’ claims against these  
6 defendants – conclusively establishes that all Plaintiffs’ claims against these defendants  
7 are extinguished and were extinguished at the time of filing of the Complaint. (See  
8 Exhibit B.) This information was publicly available, including to Plaintiffs, at the time of  
9 filing. (See id.)

10 12.

11 Therefore, the citizenship of Mike and Roberta Quiggle and R&M Investors, Inc.  
12 should be disregarded for removal purposes, and the naming of Mike and Roberta  
13 Quiggle and R&M Investors, Inc. does not defeat removal of the Action.

14 13.

15 As established by the foregoing, the Springs Entities are the only defendants  
16 “properly joined and served” under 28 U.S.C. § 1441(b). Accordingly, the controversy in  
17 the action is wholly between citizens of different states. Plaintiffs are citizens of  
18 Washington and the Springs Entities are citizens of South Carolina.

19 14.

20 A district court has original diversity jurisdiction where “the matter in controversy  
21 exceeds the sum or value of \$75,000, exclusive of interest and costs.” 28 U.S.C. §  
22 1332(a). That threshold is met in this action, as plaintiffs allege in Paragraph 3.7 of their  
23 Complaint that they seek \$7.5 million in future medical costs, along with other damages.  
24 (See Exhibit A.)  
25

15.

1 The state court action may be removed to this Court by Springs in accordance  
2 with the provisions of 28 U.S.C. § 1441(a) and (b) because: (i) this action is a civil action  
3 pending within the jurisdiction of the United States District Court for the Western District  
4 of Washington; (ii) this action is between citizens of different states; and (iii) the amount  
5 in controversy exceeds \$75,000.00, exclusive of interest and costs.

6 16.

7 Pursuant to 28 U.S.C. § 1446(d), written notice of the removal of this action has  
8 been given simultaneously to all counsel of record, and a Notice to Clerk of Removal has  
9 been simultaneously filed with the Superior Court for State of Washington, Mason  
10 County.

11 WHEREFORE, Defendants Springs Window Fashions Manufacturing Co., USA,  
12 Inc.; Springs Industries, Inc., and Springs Window Fashions, LLC hereby remove the  
13 above-captioned action from the Plaintiffs' counsel, and a Notice to Clerk of Removal  
14 has been simultaneously filed with the Superior Court for State of Washington, Mason  
15 County and requests that further proceedings be conducted in this Court as provided by  
16 law.

17 DATED this 24<sup>th</sup> day of August, 2011.

18 LAW OFFICE OF WILLIAM J. O'BRIEN

19 By: 

20 Gregory G. Wallace, WSBA No. 29029  
21 Attorneys for Defendants Springs Window  
22 Fashions Mfg. Co. USA, Inc., Springs  
23 Industries, Inc., and Springs Window  
24 Fashions, LLC, all dba Graber

25 -and-

1 Jameson B. Carroll (admitted *pro hac vice*)  
2 Michael Weiss (admitted *pro hac vice*)  
3 CARROLL & WEISS LLP  
4 1819 Peachtree Road, Suite 104  
5 Atlanta, GA 30309

6 Attorneys for Defendants Springs Window  
7 Fashions Mfg. Co. USA, Inc., Springs  
8 Industries, Inc., and Springs Window  
9 Fashions, LLC, all dba Graber  
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EXHIBIT A

ORIGINAL

REC'D & FILED  
MASON CO. WA.

2011 JAN 11 A 11:14

PAT SWARTOS, CO. CLERK  
BY [Signature] DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF MASON

JOHN AND KELLY ARMSTRONG,  
individually, as husband and wife and as  
Guardians ad Litem for [REDACTED] M.A.  
[REDACTED] minor

Plaintiffs,

vs.

SPRINGS WINDOW FASHIONS  
MANUFACTURING CO. USA, INC., a  
foreign corporation, d/b/a GRABER; MIKE &  
ROBERTA QUIGGLE, individually and as  
husband and wife, and d/b/a R & M Investors,  
Inc., a Washington corporation,

Defendants.

11 2 00028 5  
NO.

COMPLAINT FOR INJURIES  
AND DAMAGES IN TORT

COMES NOW the Plaintiffs, JOHN AND KELLY ARMSTRONG, husband and wife  
and the parents of the minor child, [REDACTED], duly appointed Guardians ad

COMPLAINT

- 1 -

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LAW OFFICES OF  
TERRY E. LUMSDEN  
3517 SIXTH AVENUE, SUITE 200  
TACOMA, WASHINGTON 98406  
TELEPHONE (253) 537-4424  
FAX (253) 573-1744



1 Litem to pursue the injury claims of their daughter referenced herein, by and through their  
2 attorney of record, TERRY E. LUMSDEN, for a cause of action against Defendant SPRINGS  
3 WINDOW FASHIONS MANUFACTURING CO. USA, INC. (hereafter "Springs Window"), a  
4 foreign corporation, d/b/a GRABER; and MIKE & ROBERTA QUIGGLE, individually and as  
5 husband and wife, and d/b/a R. & M Investors, Inc., a Washington corporation, and allege:  
6

7 1.0 PARTIES

8 1.1 Plaintiffs John and Kelly Armstrong are husband and wife, parents and appointed  
9 Guardians ad Litem of the minor child, M. A. [REDACTED], whose birthday is [REDACTED]  
10 2005.

11 1.2 Defendant Springs Window is a foreign corporation of the state of South  
12 Carolina.

13 1.3 Mike and Roberta Quiggle are individuals and are husband and wife, and

14 1.4 Mike and Roberta Quiggle were doing business as R & M Investors, Inc., a  
15 Washington corporation.  
16

17 2.0 JURISDICTION

18 2.1 Plaintiffs at all times noted herein were residents of Mason County.

19 2.2 Springs Window is a foreign corporation of the state of South Carolina.

20 2.3 Mike and Roberta Quiggle are residents of Mason County.

21 2.4 R & M Investors, Inc. was a duly licensed and authorized corporation in the state  
22 of Washington, doing business in Mason County.  
23

24 COMPLAINT

- 2 -

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2.5 Mason County Superior Court is the proper forum for this claim.

### 3.0 FACTS

3.1 Defendants Mike & Roberta Quiggle, individually, and as a married couple, and doing business as R & M Investors, Inc., purchased the home from a third party, remodeled the home and sold it on September 2, 2004 to Plaintiffs John and Kelly Armstrong.

3.2 On November 13, 2008, [REDACTED] was seriously and permanently injured after putting her head into her home's window blinds' cords designed, manufactured and sold by Defendant Springs Window, under the d/b/a of Graber.

3.3 For many years, manufacturers of window blinds' curtains, etc., including Springs Window, have known of the dangerous nature of window blinds' cords and the hazard they present to minor children.

3.4 Defendant Springs Window has participated in numerous industry meetings, studies and seminars to discuss and analyze this dangerous nature of window blinds' cords.

3.5 Defendant Springs Window has never issued a recall of its product either to wholesalers, retailers or homeowners, nor published in newspapers, magazines, internet or on television, that their window blinds' cords should be removed or otherwise made safe from a child being able to put its head through the cords and choking.

3.6 Defendant Springs Window was asked by Plaintiffs to assist in the expenses of M.A. medical treatment therapy and needed for [REDACTED] It declined.

## COMPLAINT

- 3 -

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**TERRY E. LUMSDEN**  
3517 SIXTH AVENUE, SUITE 200  
TACOMA, WASHINGTON 98406  
TELEPHONE (253) 537-4424  
FAX (253) 573-1744

MA.  
1 3.7 A preliminary Life Care Plan has been prepared for [REDACTED] not  
2 including all the future medical care she will need, not including her loss of future earnings, and  
3 not including her pain and suffering, at a cost of \$7.5 million dollars.

#### 4.0 CLAIMS

4.1 Defendant Springs Window negligently designed and/or constructed and sold  
6 window blinds' cords for the subject home under the trade name of Graber..

4.2 Defendant Springs Windows violated the Washington State Product Liability Act,  
8 RCW 7.72 et seq; including negligence, failure to warn, and strict liability.

4.3 Defendant Springs Window failed to follow up, recall, warn, or otherwise attempt  
10 to render safe the window blinds' cords, even after decades of overwhelming information about  
11 significant injuries to minor children who came into contact with such window blinds' cords.

4.4 Defendants Mike & Roberta Quiggle, individually, as a married couple and d/b/a  
14 R & M Investors, Inc. installed or failed to remove said window blinds' cords from the home they  
15 purchased, remodeled and sold to the Plaintiffs.

4.5 The negligence of Springs Window and Mike and Roberta Quiggle, individually,  
17 as a married couple and d/b/a R & M Investors, Inc., were the sole and proximate causes to  
18 MA.  
19 [REDACTED] injuries and the parents' loss of consortium.

MA.  
20 4.6 [REDACTED] suffered permanent, severe brain damage, pain and suffering,  
21 loss of enjoyment of life, disability and dysfunction, loss of future earnings, and incurred  
22 medical bills past and future due to defendants' conduct.

24 COMPLAINT

- 4 -

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LAW OFFICES OF  
**TERRY E. LUMSDEN**  
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TACOMA, WASHINGTON 98406  
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FAX (253) 573-1744

M.A.

4.7 [REDACTED] parents, John and Kelly Armstrong, have suffered loss of consortium, love and affection and companionship with their daughter.

#### 5.0 PUNITIVE DAMAGES

5.1 Plaintiffs reserve the right to amend the Complaint to add a claim for Punitive Damages under State of Washington "Conflict of Laws" analysis, from the defendant Springs Window Fashions state of incorporation, South Carolina, if the egregious conduct of Springs Window Fashions, as alleged herein, occurred in South Carolina. This reservation also applies if this lawsuit is ever removed to Federal Court.

#### 6.0 PRAYER FOR RELIEF

6.1 Wherefore, Plaintiffs pray for judgment against the Defendants in such sum as will fairly compensate the Plaintiffs.

DATED this 10 day of Jan, 2011.

LAW OFFICES OF TERRY E. LUMSDEN



Terry E. Lumsden, WSBA#5254  
Attorney for Plaintiffs

COMPLAINT

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LAW OFFICES OF  
**TERRY E. LUMSDEN**  
3517 SIXTH AVENUE, SUITE 200  
TACOMA, WASHINGTON 98406  
TELEPHONE (253) 537-4424  
FAX (253) 573-1744

EXHIBIT B

REC'D & FILED  
MASON CO. WA

2011 JUL 21 P 1:58

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF MASON  
RAY SWARTZ, CO. CLERK  
BY 1011 DEPUTY

JOHN AND KELLY ARMSTRONG,  
Individually, as husband and wife and as  
Guardians as item for            M.A.,  
           minor

Plaintiff,

and

SPRINGS WINDOW FASHIONS  
MANUFACTURING CO. USA, INC. a  
foreign corporation, dba GRABER; MIKE  
& ROBERTA QUIGGLE, individually and  
as husband and wife, and dba R&M  
INVESTORS, INC. a Washington  
Corporation.

Defendant.

NO. 11-2-00028-5

ANSWER TO FIRST AMENDED  
COMPLAINT AND MOTION TO  
DISMISS R&M INVESTORS, INC.  
AND MIKE AND ROBERTA  
QUIGGLE

TO: ALL PARTIES HEREIN.

COMES NOW the above-named defendant and hereby answers Plaintiff's complaint as follows:

The defendants, R&M Investors Inc. and Mike and Roberta Quiggle, have insufficient knowledge as to the truth or falsity of all allegations in Plaintiff's complaint, and therefore DENY the same.

ANSWER TO FIRST AMENDED COMPLAINT  
AND MOTION TO DISMISS - 1

ORIGINAL

KENNETH E. ROSSBACK  
3219-6<sup>th</sup> Avenue  
Tacoma, WA 98406  
Phone: 253-573-1300  
Fax: 253-752-6900

25

1 Mike and Roberta Quiggle filed a chapter 7 Bankruptcy Petition on May 22, 2009; a copy  
2 of the notice is attached hereto and incorporated herein by this reference.

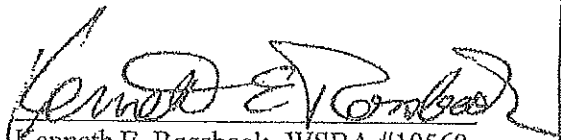
3 Mike & Roberta Quiggle received a discharge order from the Bankruptcy Court on  
4 September 11, 2009; a copy of the notice is attached hereto and incorporated herein by this  
5 reference.

6  
7 R&M Investors Inc. no longer exists and all assets thereof have been liquidated by the  
8 chapter 7 trustee in the above reference case.

9  
10 The automatic stay imposed by the bankruptcy court prohibits any action from being  
11 taken against the debtors or their property.

12  
13 Therefore Mike and Roberta Quiggle respectfully request that they be dismissed from this  
14 action.

15  
16 Dated: 7-19-11

  
Kenneth E. Rossback, WSBA #19560  
Attorney for the Defendant

**United States Bankruptcy Court**  
Western District of Washington  
1717 Pacific Avenue  
Suite 2100  
Tacoma, WA 98402

REC'D & FILED  
MASON CO. WA

2011 JUL 21 P 1:58

PAT SWARTOS, CO. CLERK  
BY \_\_\_\_\_ DEPUTY

Case No. 09-43671-PBS  
Chapter 7

In re Debtor(s) (name(s) used by the debtor(s) in the last 8 years, including married, maiden, trade, and address):

Michael C Quiggle  
301 E. Wallknee Blvd, #224-153  
Shelton, WA 98584

Roberta L Quiggle  
301 E. Wallknee Blvd, #224-153  
Shelton, WA 98584

Social Security/Individual Taxpayer ID No.:  
xxx-xx-0082

xxx-xx-7944

Employer Tax ID/Other nos.:

**DISCHARGE OF DEBTOR**

The Debtor(s) filed a Chapter 7 case on May 22, 2009. It appearing that the Debtor is entitled to a discharge,

**IT IS ORDERED:**

The Debtor is granted a discharge under 11 U.S.C. § 727.

BY THE COURT

Dated: September 11, 2009

Paul B Snyder  
United States Bankruptcy Judge

SEE THE BACK OF THIS ORDER FOR IMPORTANT INFORMATION.

ORIGINAL



United States Bankruptcy Court  
Western District of Washington

**Notice of Bankruptcy Case Filing**

A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 7 of the United States Bankruptcy Code, entered on 05/22/2009 at 3:37 PM and filed on 05/22/2009.

**Michael C Quiggle**  
301 E. Wallknee Blvd, #224-153  
Shelton, WA 98584  
SSN / ITIN: xxx-xx-0082

**Roberta L Quiggle**  
301 E. Wallknee Blvd, #224-153  
Shelton, WA 98584  
SSN / ITIN: xxx-xx-7944

The case was filed by the debtor's attorney:    The bankruptcy trustee is:

**Kenneth E Rossback**  
Attorney at Law  
3219 6th Ave  
Tacoma, WA 98406-5901  
253-573-1300

**Kathryn A Ellis**  
600 Stewart St Ste 1300  
Seattle, WA 98101  
206-682-5002

The case was assigned case number 09-43671-PBS to Judge Paul B Snyder.

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available with a Pacer account log in at <https://ecf.wawb.uscourts.gov> or via public terminals at the Clerk's Office, 1717 Pacific Avenue, Suite 2100, Tacoma, WA 98402 or 700 Stewart St, Room 6301, Seattle, WA 98101.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.



**Mark L. Hatcher**  
Clerk, U.S. Bankruptcy  
Court

**ORIGINAL**